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On Audio only: Brian Beckham, Dale Nelson

Apologies: none

Staff:

Mary Wong Julie Hedlund Ariel Liang

Antonietta Mangiacotti Berry Cobb Dennis Chang Terri Agnew

Terri Agnew:Welcome to the Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group on Wednesday, 17 January 2018 at 18:00 UTC for 90 minutes.

Terri Agnew:agenda wiki page: https://urldefense.proofpoint.com/v2/url?u=https-

<u>3A</u> community.icann.org x tgxyB&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4l5cM& r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=7NUtpeORiV6ZrNmfgNLLxVoZ2e1IZMiJDBG-VKJ9Ne8&s=47LCcLSIhG-JCKAGqFy2zC233ai49dgzMH7-1vm4X7l&e=

Maxim Alzoba (FAITID):Hello All

J. Scott Evans: Thanks Terri.

J. Scott Evans:Yest see what we look like at 2 minutes after the hour.

George Kirikos:Hi folks.

Steve Levy:Hello all

J. Scott Evans:Please note the is NO call next week due to Staff obligations

Maxim Alzoba (FAITID):do we have overlap with NamesCon?

Kathy Kleiman: And call the following week is our Asia-friendly call.

Kathy Kleiman:@Maxim: yes

Maxim Alzoba (FAITID):means lack of people usually

Kathy Kleiman:But it's a nighttime call...

Maxim Alzoba (FAITID): it depends on the timebelt ... for me 7AM :)

Kathy Kleiman:good point :-)

George Kirikos: In Table 1, the avg domains/case should be 2.25 (1861/827). Looks like it got messed up somehow.

Mary Wong:@George, yes, as Berry just mentioned.

George Kirikos:Right, Mary (I typed that before he said it, though). :-)

George Kirikos:Bad lawyers.

claudio: the registry voluntary adopted it

George Kirikos:One lawyer recently filed a UDRP for .IN, by mistake.

Jeff Neuman:Some legacy TLDs agreed to adopt URS when their contracts were renewed

George Kirikos:(UDRP doesn't apply to .in)

Philip Corwin: Probably agreed to URS in RA renewal negotiation

Jeff Neuman:And .pw voluntarily signed up to adhere to URS

Susan Payne:PW did

J. Scott Evans:Thank you Susan.

Jeff Neuman:PW was the first TLD that URS applied to (even before 1st gTLD URS case)

J. Scott Evans: Thank you Berry.

Ivett Paulovics: With MFSD until today 3 URS Complaints were filed for .com domains

Jeff Neuman: I think it also now applies to .travel and a few others

Maxim Alzoba (FAITID):was it MUST or MAY type of agree (for .pw)?

Ivett Paulovics: Due to the error of the Complainant. All dismissed.

Ivett Paulovics: After our Administrative Review of the Complaints.

claudio:.CN doesn't have the URS, correct?

George Kirikos:Right, Claudio, it doesn't.

Zhou Heng:yeah

George Kirikos:Here's the UDRP filed for a .in, by mistake:

https://urldefense.proofpoint.com/v2/url?u=http-

<u>3A</u> www.adrforum.com_domaindecisions <u>1758709.htm&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfk</u> bPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpCIgmkXhFzL7ar9Qfqa0Algn-

H4xR2EBk&m=7NUtpeORiV6ZrNmfgNLLxVoZ2e1IZMiJDBG-

<u>VKJ9Ne8&s=iMcjnkI12earzpziYjMdvfmAIuZZfr7XCzRpOElQdws&e</u>= (quorate.in) A Winston & Srawn LLP filing.

Zhou Heng:So amazing

Mary Wong:As you review Tables 4 & 5, please pay attention to the caution/note above the tables. Zhou Heng:I bet even in China Internet community may have noticed this case

George Kirikos:Registered in that window, right? (not when the URS case was brought?) David McAuley:I thought the reverse

Mary Wong:No, complaint filed during the Claims window of that gTLD

George Kirikos: I would think that is a poor metric.

Zhou Heng:Of course

George Kirikos:Better to check when the domain name is registered, relative to the TMCH. Or even better, compare it to the TMCH, when that data is available (as Berry is saying now).

Zhou Heng: It's somehow a shame I think

George Kirikos: (relative to the TMCH notice period, even)

Susan Payne:George, Berry is saying all this

Mary Wong: This remains a work in progress - and as we go ahead and get more data, we can add/improve, and take into account what the WG as a whole believes is useful to highlight

Cyntia King: Apologies for my tardiness.

Kathy Kleiman: Table 6, Chart 3 now?

George Kirikos:Yes.

Zhou Heng:Yes

David McAuley:claim denied - default seems mighty strange. why bring the case

Zhou Heng: There are billions domain names in Name space

Zhou Heng:only 700+ urs

George Kirikos: Tens of millions, Zhou, for New gTLDs. But, you're right, a tiny ratio, spread over several years.

Susan Payne: Zhou Heng there aren't billions of New gTLD registrations. Yet anyway :)

Zhou Heng: When I worked in CONAC, I have noticed such a situation

Zhou Heng:Yeah, I know that, pardon for my mistakes

Mary Wong: The option for the Examiner to decide to publish both is in the URS Rules

George Kirikos:That's in the description column, and could be copied over.

Petter Rindforth:Good point

Mary Wong:Basically, Berry told me (when I asked the same question) that it could mess up the data extraction. That's why we added the Description column.

Philip Corwin:Suggest that the referenced resource documents listed on page 2 also include the standard MOU with URS providers, as it creates some obligations separate from those in the rules and procedures

Mary Wong:So essentially you can disregard the blank rows when reading this table - that makes it easier.

Zhou Heng: I believe the form of those tables is pretty good

George Kirikos:You can simply hide the first column of the table, essentially.

George Kirikos: (i.e. can keep it, but make it not visible when printed)

George Kirikos:https://urldefense.proofpoint.com/v2/url?u=https-3A__support.office.com_en-2Dus_article_hide-2Dor-2Dshow-2Drows-2Dor-2Dcolumns-2D659c2cad-2D802e-2D44ee-2Da614-2Ddde8443579f8&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpCI gmkXhFzL7ar9Qfqa0Algn-H4xR2EBk&m=7NUtpeORiV6ZrNmfgNLLxVoZ2e1IZMiJDBG-

VKJ9Ne8&s=M0DN4uirTW3ac1Cgw7lBYdhRVAhmuaqW-A7UjGrerug&e=

Zhou Heng: I beilieve ADNDRC and mfsd have such a lack of expierence of URS, so they don't take longer time than ADR forum

Zhou Heng:however, 17 days may be still too long for a "rapid" system

Ivett Paulovics:Zhou it's not a question of experience, but essentially the time requested for the notification of the complaint.

George Kirikos: It looks like maybe 14?

J. Scott Evans:@george. At least 14.

Zhou Heng:okay

Susan Payne: Maybe we should ask the providers. I think they are participating arent they? maybe not expecting them to know the answer now but they may be able to answer that

Kathy Kleiman:Tx J. Scott and George.,

Kathy Kleiman:@Notes Write for Table 6, chart 3 -- here's what I shared -- 6.3 URS Procedure states "All Default cases proceed to Examination for review on the merits of the claim." Worth dropping as a footnote. (I don't know what an "automatic lawsuits"

George Kirikos:"For a long time I have also called for UDRP decisions to be in standardized XML formats, so that academic researchers could perform better analysis of decisions." (comment also applies to URS) Would have made Berry's work much easier.

https://urldefense.proofpoint.com/v2/url?u=http-3A__www.circleid.com_posts_20100423-5Fnaf-

5Fcopying-5Fpasting-5Fnonsense-5Finto-5Fudrp-

<u>5Fdecisions_&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4l5cM&r=DRa2dXAvSFpClgmk</u> <u>XhFzL7ar9Qfqa0Algn-H4xR2EBk&m=7NUtpeORiV6ZrNmfgNLLxVoZ2e1lZMiJDBG-</u>

VKJ9Ne8&s=mipQITVY057SSI2WxmGd2g7Q3uxSBkc795UW21OulKM&e=

George Kirikos: Too much manual work required, to put the data into a usable form at present.

Zhou Heng:so, maybe we need the exact time for each step of URS?

Zhou Heng:@lvett Paulovics

Kathy Kleiman:Tx Mary

Kathy Kleiman:@Notes Writer: In fact there is *no* automatic lawsuit :-)

Julie Hedlund:@Kathy -- noted for the notes!

George Kirikos: That would be a subset of "claim denied".

Berry Cobb:I'll defer to Mary to respond.

George Kirikos:But, would be nice to break it down.

Renee Fossen (Forum): Forum will work with the group to provide any additional data necessary.

Mary Wong:Thanks, Renee

Zhou Heng:tx

Mary Wong:Berry will answer this one

Kathy Kleiman: Abusive Complaints is the title of Section 11 of the URS Procedure.

Zhou Heng:So, how much of the abusive complaints in URS now?

claudio:was this data collection excersie, a one time deal or is staff able to additional research? Mary Wong:@Claudio, we are using data that is being collected by GDD staff through a scrape of the providers' websites. One potential recommendation this WG may wish to consider is to have this data maintained.

Zak Muscovitch: Many thanks

Mary Wong:@Zak, in other words, to follow up on what Berry is saying, we can do it (but note that not all providers provide the same fields for search/checking off) but this is not in the data we have. We do not have data reported to ICANN in a uniform format by all the providers.

George Kirikos:Yes, make it in a standard XML format, as I've long advocated.

Susan Payne:Can we just agree now that we recommend ICANN should get standard format data from providers (or at least make this the first call to agree?)

Zak Muscovitch:Many thanks Mary. We managed to collect the variious different potential results with the exception of this one (Abusive complaints), notwithstanding that Section 11 specifically provides for a finding of abusive complaints, and indeed Providers are actually required under the procedure to track such abusive complaints. See: URS Providers shall identify and track barred parties, and parties whom Examiners havedetermined submitted abusive complaints or deliberate material falsehoods.

claudio:thanks Mary!

Renee Fossen (Forum):Forum provides monthly reports to ICANN regarding the stats. I assume the information is collected for all URS providers.

David McAuley: I also think before we ask staff to go off and do things we should get sense of WG that it is needed, or at least co-chairs think it is needed

Zhou Heng:Yeah, we do understand that.

Mary Wong:@Renee, @Susan, all - yes, so if the WG decides it is important to have data collected and maintained on an ongoing basis, it may be equally important to recommend that this be reported and stored in a uniform and consistent way.

Lori Schulman:agree with Susan P

George Kirikos: Published in a standard form, so all researchers, etc.

claudio:agree Susan

Kathy Kleiman: Agee with J.Scott and Zak -- there will be additional issues and findings to add.

Kathy Kleiman: Uniform format would be good...

George Kirikos:Not a standardized report, but the DECISIONS in XML format.

Susan Payne:well,I think that ICANN shoudlexplore the feasibility with providers

George Kirikos:i.e. each decision would have fields like DATE COMMENCED, DOMAIN, DATE ENDED, ETC.

Zhou Heng:Maybe we can send the format in Mail list

Ivett Paulovics:Yes, data is provided on a standardized form of ICANN on regular basis.

Kathy Kleiman:Tx Berry!

Ivett Paulovics: If any additional data is reuqested, we will be happy to provide it.

David McAuley:+1 @Kathy thanks Berry

Zhou Heng:Agree with lvett

George Kirikos:Susan's email: <u>http://mm.icann.org/pipermail/gnso-rpm-wg/2018-January/002699.html</u>

Philip Corwin:It's not closed

Susan Payne:I'mhappy either way - just want to make sure it'snot closed

Susan Payne: ok then thanks

Paul McGrady:Let's just stick with going through the questions then.

David McAuley:Let's proceed in manner you prepared to then

Philip Corwin:Nothing final decided

Kathy Kleiman: high-level questions might be good now

George Kirikos:#5 is hard to interpret.

Michael Karanicolas: In terms of the first one, "Has it been used?", I would propose adding "and if not, why not", to ensure we're looking back raw numbers of use of the system and considering the context of it's use (or lack of use).

Michael Karanicolas:*beyond the raw numbers, not "back"

David McAuley:but if none prevail that may say something about the rpm

David McAuley:that helps Mary

Zak Muscovitch:In keeping with the intended spirit of the open-ended high-level questions, I would suggest adding to the end of #4, ",if any"

Kathy Kleiman:+1 Rebecca

George Kirikos: Agreed, Rebecca (that's for #1).

Paul McGrady: Also confused. Are we on Q5 or Q1?

Ivett Paulovics: Is any document shared now on the screen? Sorry, but I can't see anything.

Zhou Heng:Pardon if I am wrong, I guess those 5 questions is proposed to Brand owners? George Kirikos:Q3 is also a data issue.

Kathy Kleiman:Q5: What happened? Who prevailed?

George Kirikos: Ivett: it's the same doc as: <u>http://mm.icann.org/pipermail/gnso-rpm-</u>

wg/attachments/20180112/f2ab84df/CompilationofCurrentURSDiscussionDocuments-12Jan2018-0001.pdf

Kathy Kleiman:Seems like a good concluding question

Kurt Pritz 2:I don't think we should debate or attempt to answer "what is the original purpose." The original purpose should be quoted out of the IRT document that proposed the URS.

George Kirikos:(page 1, first 5 questions)

Maxim Alzoba (FAITID):two parties ... in most cases at one prevailed

Maxim Alzoba (FAITID):at least

David McAuley:that's good

claudio:@kurt, I have a question about "original purpose" too

David McAuley:ultimate outcome

Philip Corwin: That's better

Paul McGrady: I like "ultimate outcome"

Rebecca L Tushnet 2:I think the wording could be flexible as long as the data are collected

Cyntia King: I agree in asking about outcomes

Michael R. Graham: Agree -- "Ultimate outcome" would be good and value-free

John McElwaine:agree with JScott

Greg Shatan: Where are these questions to be found.

Terri Agnew:@Sean, I sent you a private adobe connect chat

Greg Shatan: I see them now.

Rebecca L Tushnet 2: This is related to changing 1 to include "why or why not?"

Kurt Pritz 2:I prefer J Scott's version of the question.

claudio:what is "original purpose" referring to in 2 3, and 4 - the URS or a specific process within the URS

Greg Shatan: Agree with JScott's formulation as well.

Zak Muscovitch:+1 Rebecca, "why" is a key issue

George Kirikos:#2, #3, and #4 are all in alignment with each other.

George Kirikos:#1 might be "Do we have data/experience on this topic?", in line with Rebecca's earlier comment. And then, what is that data/experience?

George Kirikos:My ears are bleeding.

Zhou Heng:.

Terri Agnew:finding line

Cyntia King:Ouch!

Paul McGrady:Yikes!

claudio:that was loud

Lori Schulman: i thought sonic attacks only happened in embassies

Terri Agnew:finding line

Michael R. Graham:Sonic attacks?

George Kirikos:lol Lori

Zhou Heng:hello hawaii

Cyntia King:Bahahaha, Lori!

Paul McGrady: We need Commander Uhura!

Kurt Pritz 2:One way we might look at these questions? If we answer each of these five questions - will we have the information necessary to make policy recommendations?

Philip Corwin:same point via a somewhat different approach/analysis

Lori Schulman:Good point made by Kurt

Kurt Pritz 2:I don't think we should ask: "What was the original purpose?" Unless we merely paste in the purpose described by the IRT.

claudio:@kurt, that was my comment. I think original purpose refers to the provision within the URS, not the URS itself

George Kirikos:Heather made up some questions on the fly, in that call when it was originally proposed. Paul McGrady:@Kathy, question 3 gets at reality v perception.

George Kirikos: I don't think they were intended to be set in stone.

Mary Wong: If it helps, here is how ICANN describes the URS: "The Uniform Rapid Suspension System is a rights protection mechanism that complements the existing Uniform Domain-Name Dispute

Resolution Policy (UDRP) by offering a lower-cost, faster path to relief for rights holders experiencing the most clear-cut cases of infringement."

Susan Payne:spute.	In	relatio	onto	domain name dispu	tes concerning th	e
registration	and	use	of	legally protected	trademarks, the	
Uniform	Disput	e Resolı	ution	Policy (UDRP) is	the longest standing	

alternative dispute resolution procedure. As result of the а Program, several new mechanisms (RPMs) New gTLD rights protection potential developed mitigate were to risks and costs to trademark rights holders that could arise in the expansion of gTLD the namespace, which included certainsafeguards protect to registrants legitimate of who engage in uses domain names: the Trademark Uniform Rapid Suspension System (URS); the Clearinghouse (TMCH) and the associated availability throughthe TMCH of Sunrise periods and Trademark Claims notification service; and Postthe the Delegation **Dispute Resolution** Procedures (

Zhou Heng:Yeah

Philip Corwin: In regard to question 4, subsidiary or related questions could be - How would the proposed change affect the complainant and registrant? And what if any impact would the proposed on the cost and efficiency of the URS? Those both seem related to ultimate policy decisions.

George Kirikos:+1 J Scott.

Susan Payne:oh sorry - that's from the charter but comes out horribly formatter

Heather Forrest: It seems that the methodology is not fulfilling the purpose behind my original intention, which was to give us a path forward to commence analysis without arguing for months about how to go about the analysis

Zhou Heng:we get your point

Paul McGrady:@Heather - let's not give up yet. I think we are making progress today.

George Kirikos:@Heather: How so? I thought we were making progress.

Paul McGrady:George & Paul agree! Make sure it gets in the formal record! :)

George Kirikos: Take Q2, break it into two separate parts. Keep Q3 and Q4. Insert something about "Do

we have data/experience?" between Q2 (a) and Q2(b), and it's basically what we've got.

George Kirikos:Not sure Q5 sutivives.

George Kirikos:*survives, even

Philip Corwin:Heather, I am seeing constructive discussion on this call, not argument

Susan Payne:+1 J Scott. But does that matter?

George Kirikos: Either based on IRT, or implicitly otherwise.

Philip Corwin: I think this overarching questions framework is useful for framing our policy

considerations and reducing the need to minutely adjust Charter questions

George Kirikos:Purpose of English-only, etc.

George Kirikos: Are there unintended consequences (e.g. hurts Chinese registrants, who dominate registrations).

Jeff Neuman:Agreeing on the purpose is part of evaluating the success (or not success) of the program. Evaluation of anything requires criteria by which it needs to be evaluated. These 5 questions are an attempt to come up with that criteria. Not all criteria belong to all aspects, but they are a start so we can get going.

Kathy Kleiman: Original purpose - > as applied to the mechanics.

Jeff Neuman:Lets get going :)

Heather Forrest:@Phil - that was certainly the motivation behind the questions

Susan Payne:we don't have to make changes to the policy if there are unintended consequences. we might consider that we should make changes. it is still a balance

Susan Payne:by which I mean, it depends on the facts

George Kirikos: If we look at "policy" as "computer code", that's another way to look at things. e.g. What was the original purpose of a function within a computer program? etc.

Mary Wong:To the extent that these questions reflect how the Claims Sub Team approached its task, how that Sub Team phrased the purpose issue was "Is it having its intended effect? Are there unintended consequences?"

Heather Forrest:"intention of the drafters" is exactly a good phrase here, Paul

Jeff Neuman:@Heather - if we can get agreement on who the drafters were :) Some would argue that the original drafters were the IRT and others would argue it was the STI; some would say IRT as modified by the STI

claudio:@Jeff, or as modified by public comment

Mary Wong:Again, if it helps, the ICANN description of the URS is "The Uniform Rapid Suspension System is a rights protection mechanism that complements the existing Uniform Domain-Name Dispute Resolution Policy (UDRP) by offering a lower-cost, faster path to relief for rights holders experiencing the most clear-cut cases of infringement."

Heather Forrest:@Jeff - good point. To the extent it can be discerned. We need an objective yardstick to measure by - noting that our task is to "Review all RPMs"

Kathy Kleiman: As long as we include that the charter questions came from the Council in our Charter :-) Susan Payne: Quite - I don't ant to spend time arguing the pres=cise wording Phil - I just want to amke sure we all remember that down the line

Zhou Heng:So, maybe we can divide the definition in charter question: how to make it low-cost? how to make it faster?

Susan Payne:want

Paul McGrady: It sounds like we arrived at the station safely togther today on the Revised 5 Questions. Let's savor the cooperative efforts that got us to a good outcome on the call today.

Jeff Neuman:So, at the next meeting we will start on the substance on the complaint?

Michael Karanicolas: I'm not sure what the purpose is of throwing out a complaint about how "horribly biased" the questions were

claudio:@J Scott, agree - we need that additional question

George Kirikos:That sounds good.

Rebecca L Tushnet: If we're adding, can we add "why or why not"?

Kathy Kleiman:I'm not sure that is a good idea...

Rebecca L Tushnet:Kathy has repeatedly suggested it for 1)

Susan Payne:Michael,I think Phil's comment addressed that quite clearly. On the TMCH, Sunrise and Claims we spent painstaking months wordsmithing the charter questions for neutrality and nondeterminative language. We are not doing that here. Which I believe to be a good thing to allow us to get on with the work. I just want a note to remind ourselves that this is what we have done

Heather Forrest: Just noting for clarity that the Charter Qs did not come from Council.

Kathy Kleiman: (to original purpose still relevant?)

Kathy Kleiman: Agree with Jeff!

Paul McGrady: I am flexible on asking the additional question.

claudio:whats the point of asking if there are unintended consequences then?

George Kirikos: The 31st will be the Asia Pacific call?

Kathy Kleiman:Yes

Mary Wong:Yes,

Jeff Neuman:@Claudio - to address the unintended consequences

Paul McGrady: Thanks J Scott! Great call!

Steve Levy:Bye all

Terri Agnew:Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group is scheduled for Thursday, 01 February 2018 at 04:00 UTC for 90 minutes

Maxim Alzoba (FAITID):bye all

Zhou Heng:thank you all Susan Payne:thanks J Scott Michael R. Graham:Thanks, J Scott Philip Corwin:Ciao, good work today David McAuley:thanks J. Scott, staff and all Jeff Neuman:but we are not the ones to look at changing the original purpose Heather Forrest:Thanks J Scott